

# UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

WILLIAM ALVIE MARLOW,  
  
Petitioner,

v.

SCOTT FRAKES,  
  
Respondent.

## JUDGMENT IN A CIVIL CASE

CASE NUMBER: C09-5455RJB/KLS

- ☐ **Jury Verdict.** This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.
- ☒ **Decision by Court.** This action came to consideration before the Court. The issues have been considered and a decision has been rendered.

### THE COURT HAS ORDERED THAT

1. The Court **ADOPTS** the Report and Recommendation (Dkt. 39), with the correction;
2. Petitioner's first claim for federal habeas relief based on the Fifth and Fourteenth Amendments' due process clauses and the First Amendment's access to courts claim is **DENIED**. Petitioner's remaining claims were dismissed with prejudice by the court on September 23, 2010, as unexhausted and procedurally barred (Dkt. 29).
3. In his objections, Petitioner required that the court grant a Certificate of Appealability. Dkt. 44. In the event that petitioner files an appeal with the Ninth Circuit U.S. Court of Appeals, the motion for a Certificate of Appealability (Dkt. 44) is **DENIED**, in accord with the recommendation of the magistrate judge.
4. This case is **DISMISSED WITH PREJUDICE**.

Dated this 18 day of May, 2011.

William M. McCool  
Clerk

s/CM Gonzalez  
Deputy Clerk